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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,294	07/24/2006	Marius Dichtl	KRZEU1.001NP	6949
29995 7590 03/30/2009 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER PRITCHETT, JOSHUA L				
ART UNIT		PAPER NUMBER		
2872				
NOTIFICATION DATE		DELIVERY MODE		
03/30/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
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Office Action Summary

Application No.

10/587,294

Applicant(s)

DICHTL, MARIUS

Examiner

JOSHUA L. PRITCHETT

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
4a) Of the above claim(s) 10-16, 23 and 31-37 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9, 17-22 and 24-30 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

This action is in response to Election filed February 9, 2009. Applicant elected claims 1-9, 17-22 and 24-30 without traverse.

Election/Restrictions

Claims 10-16,23 and 31-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on February 9, 2009.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9, 17, 18, 20, 22 and 24-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (US 2001/0043396).

Regarding claims 1 and 22, Lee discloses a grating image having one or more grating fields each of which includes an electromagnetic radiation influencing grating pattern comprising a plurality of grating lines, the grating lines being characterized by the parameters orientation, curvature, spacing and profile (Figs. 1-4) wherein in the grating image, a grating field that is separately perceptible with the naked eye (para. 0065) includes an electromagnetic radiation influencing grating pattern having grating lines for which at least one of the characteristic parameters orientation, curvature, spacing and profile varies across the surface of the grating field (Figs. 1-4).

Regarding claim 2, Lee discloses the grating field includes an electromagnetic radiation influencing grating pattern comprising uninterrupted grating lines (Fig. 1).

Regarding claim 3, Lee discloses the varying characteristic parameter exhibit a continuous variation across the surface of the grating field (Fig. 1).

Regarding claim 4, Lee discloses the varying characteristic parameter exhibit a random variation across the surface of the grating field (para. 0069).

Regarding claim 5, Lee discloses the grating field includes at least one further electromagnetic radiation influencing grating pattern having grating lines for which at least one of the characteristic parameters orientation, curvature, spacing and profile varies across the surface of the grating field (Figs. 2-3).

Regarding claim 6, Lee discloses the electromagnetic radiation influencing grating patterns exhibit a variation in those same parameters (Figs. 2-3).

Regarding claim 7, Lee discloses the grating lines of the electromagnetic radiation influencing grating pattern differ from one another by a non-varying characteristic parameter (Fig. 10).

Regarding claim 9, Lee discloses the grating field exhibits different optical brightness (MPEP 2114).

Regarding claim 17, Lee discloses the grating lines are electron beam lithography produced (para. 0009).

Regarding claim 18, Lee discloses the grating lines exhibit a line profile depth between about 100 and about 400 nanometers (para. 0065).

Regarding claim 20, Lee discloses the grating image includes a machine readable identifier that is not visible with the naked eye (para. 0077).

Regarding claims 24-28, Lee disclose a security element with a grating image (para. 0003).

Regarding claim 29, Lee discloses the varying characteristic parameter exhibit random discontinuous variation across the surface of the grating field (para. 0069).

Regarding claim 30, Lee discloses the non-varying characteristic parameter is the orientation of the grating lines (Fig. 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 2001/0043396) in view of Antes (US 5,101,184).

Lee teaches the invention as claimed but lacks reference to a matte pattern. Antes teaches a grating field forming a matte pattern with no diffractive effects (col. 3 lines 52-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Lee invention include the matte pattern of Antes for the purpose of randomly directing the light propagating through the image.

Claims 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (US 2001/0043396) in view of Argoitia (US 6,815,065).

Lee teaches the invention as claimed but lacks reference to a coating. Argoitia teaches coating the grating image with a high index material (106; Fig. 1A). Argoitia further teaches a color shifting film coating the grating image (abstract). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the Lee invention include the coating of Argoitia for the purpose of protecting the grating image and adding additional optical features to the structure.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA L. PRITCHETT whose telephone number is (571)272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joshua L. Pritchett/
Primary Examiner
Art Unit 2872